

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

6 CHERYL MOOSE,  
7 Plaintiff,  
8 vs.  
9 SPOKANE INTERNATIONAL  
10 AIRPORT,  
11 Defendant. }  
} No. CV-10-248-JLQ  
} **ORDER RE: DEFENDANT'S**  
} **MOTION FOR SUMMARY**  
} **JUDGMENT**

12 BEFORE THE COURT is Defendant Spokane International Airport's Motion for  
13 Summary Judgment (ECF No. 39). On April 28, 2011, the court heard telephonic oral  
14 argument. Michael McMahon participated on behalf of the Richard Mount and  
15 Kimberly Kamel participated on behalf of Plaintiff. The court took the matter under  
16 advisement and authorized counsel to submit supplemental briefs. The following order  
17 is intended to supplement and memorialize the comments and rulings of the court:

**IT IS HEREBY ORDERED:**

- 19       1. Defendant's Motion for Summary Judgment (ECF No. 39) is taken under  
20 advisement.  
21       2. Each side may submit a supplemental brief, no longer than ten (10) pages in  
22 length, no later than **May 5, 2011 at 12:00 p.m.** These briefs can address issues raised  
23 in the previously filed briefs, at oral argument and the following:  
24           a) Regarding the Plaintiff's disclosure obligations in her Chapter 13  
25 proceedings, what weight, if any, is to be accorded Bankruptcy Appellate  
26 Panel decision *In re Jones*, 420 B.R. 506 (9<sup>th</sup> Cir. BAP 2009)(citing Ninth  
Circuit Court of Appeals authority for support at fn 14), which utilized the  
“estate termination” approach to reconciling § 1327(b) and 1306(a)?

b) Assuming there was a duty to disclose her post-confirmation potential claims to the bankruptcy court, is there a factual question whether the failure to disclose was inadvertent, especially considering the apparent uncertainty of the law in the Ninth Circuit?

c) Bankruptcy Rule 1019(5) requires a debtor upon conversion to Chapter 7 to file a schedule of post-petition *debts*. A schedule of post-petition acquired *property* is required “except if...348(f)(2) does not apply.” 1019(5)(C)(i). There is no contention here that 348(f)(2) (bad faith conversion) applies. Does Rule 1019 presume that the post-petition acquired property of the good faith debtor will already be “listed in the final report and account” lodged by the Trustee?

3. Given the court's heavy calendars and schedules, if the parties should agree to settle this matter they shall promptly notify the court. As the court advised counsel, the trial of this matter shall trail the numerous criminal trials presently set and in view of the uncertainty of criminal matters proceeding to trial, short notice of trial or a continuance thereof may result.

IT IS SO ORDERED. The Clerk shall enter this Order and furnish copies to counsel.

Dated this 28<sup>th</sup> day of April, 2011.

s/ Justin L. Quackenbush  
**JUSTIN L. QUACKENBUSH**  
**SENIOR UNITED STATES DISTRICT JUDGE**